



General Assembly

January Session, 2001

**Amendment**

LCO No. 5879

Offered by:

SEN. COLAPIETRO, 31<sup>st</sup> Dist.

To: Subst. Senate Bill No. 1074

File No. 241

Cal. No. 201

**"AN ACT CONCERNING THE LIQUOR CONTROL ACT, HEALTH CLUBS, LICENSING OF ARCHITECTS AND PHARMACISTS, ELECTRONIC SHELF LABELING, WELL DRILLERS AND THE NEW HOME CONSTRUCTION GUARANTY FUND."**

1 Strike lines 32 to 37, inclusive, in their entirety and insert the  
2 following in lieu thereof:

3 "Sec. 2. (NEW) (a) On or after October 1, 2001, the following limited  
4 journeyperson and contractor licenses may be issued by the  
5 Department of Consumer Protection upon authorization of the  
6 Heating, Piping, Cooling and Sheet Metal Work Board established  
7 under the provisions of section 20-331 of the general statutes,  
8 including, but not limited to, the following areas: Residential and light  
9 commercial heating and cooling work, gas burner work, natural gas  
10 work, solar systems work, valve technician work and welding.

11 (b) The Commissioner of Consumer Protection, with the advice and  
12 assistance of the Heating, Piping, Cooling and Sheet Metal Work  
13 Board, shall adopt regulations, in accordance with the provisions of

14 chapter 54 of the general statutes, to implement the provisions of this  
15 section, including establishing the amount and type of experience and  
16 training required to qualify an applicant for an examination for any  
17 limited license under this section."

18 Strike lines 38 to 57 in their entirety and insert the following in lieu  
19 thereof:

20 "Sec. 3. Section 20-417i of the general statutes is repealed and the  
21 following is substituted in lieu thereof:

22 (a) The commissioner shall establish and maintain the New Home  
23 Construction Guaranty Fund.

24 (b) Each person who receives a certificate pursuant to sections 20-  
25 417a to 20-417i, inclusive, and subsection (b) of section 20-421 shall pay  
26 a fee of four hundred eighty dollars [biennially] to the fund and  
27 thereafter shall pay a renewal fee of four hundred eighty dollars  
28 biennially to the fund. Said [fee] fees shall be payable with the fee for  
29 an application for a certificate or renewal of a certificate.

30 (c) Payments received under subsection (b) of this section shall be  
31 credited to the fund until the balance in such fund equals seven  
32 hundred fifty thousand dollars. Annually, if the balance in such fund  
33 exceeds seven hundred fifty thousand dollars, the first two hundred  
34 thousand dollars of the excess shall be deposited into the Consumer  
35 Protection Enforcement Fund established in section 21a-8a. [Any  
36 excess thereafter shall be applied by the commissioner to reduce the  
37 fees payable by new home construction contractors under the  
38 provisions of sections 20-417a to 20-417i, inclusive, and subsection (b)  
39 of section 20-421 for the subsequent fiscal year, provided the total  
40 amount of fees collected from new home construction contractors  
41 under the provisions of said sections and subsection shall not be less  
42 than three hundred sixty thousand dollars biennially.] Whenever any  
43 excess thereafter is at least fifty thousand dollars, the commissioner  
44 shall deposit such excess in the New Home Construction Guaranty  
45 Fund until such time as the commissioner uses such deposited excess

46 to reduce renewal fees payable to the New Home Construction  
47 Guaranty Fund under the provisions of subsection (b) of this section  
48 for the subsequent biennial renewal cycle. Such excess shall be applied  
49 to reduce prospective renewal fees payable to the fund under  
50 subsection (b) of this section to the extent practicable based on an  
51 estimate of the number of new home construction contractors paying  
52 such renewal fees and other related factors. Such reduced renewal fees  
53 may be rounded pursuant to the discretion of the commissioner. Any  
54 money in the New Home Construction Guaranty Fund may be  
55 invested or reinvested in the same manner as funds of the state  
56 employees retirement system and the interest arising from such  
57 investments shall be credited to the fund.

58 (d) Beginning one year after October 1, 1999, whenever a consumer  
59 obtains a court judgment against any new home construction  
60 contractor holding a certificate or who has held a certificate under  
61 sections 20-417a to 20-417i, inclusive, and subsection (b) of section 20-  
62 421 within the past two years of the date of entering into the contract  
63 with the consumer, for loss or damages sustained by reason of any  
64 violation of the provisions of sections 20-417a to 20-417i, inclusive, and  
65 subsection (b) of section 20-421 by a person holding a certificate under  
66 said sections and subsection, such consumer may, upon the final  
67 determination of, or expiration of time for, appeal in connection with  
68 any such judgment, apply to the commissioner for an order directing  
69 payment out of said New Home Construction Guaranty Fund of the  
70 amount not exceeding thirty thousand dollars unpaid upon the  
71 judgment for actual damages and costs taxed by the court against the  
72 contractor, exclusive of punitive damages. The application shall be  
73 made on forms provided by the commissioner and shall be  
74 accompanied by a certified copy of the court judgment obtained  
75 against the contractor together with a notarized affidavit, signed and  
76 sworn to by the consumer, affirming that the consumer has: (1)  
77 Complied with all the requirements of this subsection; (2) obtained a  
78 judgment, stating the amount of the judgment and the amount owing  
79 on the judgment at the date of application; and (3) made a good faith

80 effort to satisfy any such judgment in accordance with the provisions  
81 of chapter 906 which effort may include causing to be issued a writ of  
82 execution upon said judgment, but the officer executing the same has  
83 made a return showing that no bank accounts or real property of the  
84 contractor liable to be levied upon in satisfaction of the judgment  
85 could be found, or that the amount realized on the sale of them or of  
86 such of them as were found, under the execution, was insufficient to  
87 satisfy the actual damage portion of the judgment or stating the  
88 amount realized and the balance remaining due on the judgment after  
89 application on the judgment of the amount realized, except that the  
90 requirements of this subdivision shall not apply to a judgment  
91 obtained by the consumer in small claims court. A true and attested  
92 copy of said executing officer's return, when required, shall be  
93 attached to such application and affidavit. Whenever the consumer  
94 satisfies the commissioner or the commissioner's designee that it is not  
95 practicable to comply with the requirements of subdivision (3) of this  
96 subsection and that the consumer has taken all reasonable steps to  
97 collect the amount of the judgment or the unsatisfied part of the  
98 judgment and has been unable to collect the same, the commissioner or  
99 the commissioner's designee may, in the commissioner's discretion,  
100 dispense with the necessity for complying with such requirement. No  
101 application for an order directing payment out of the New Home  
102 Construction Guaranty Fund shall be made later than two years from  
103 the final determination of, or expiration time for, appeal of said court  
104 judgment, and no application for an order directing payment out of the  
105 New Home Construction Guaranty Fund shall exceed thirty thousand  
106 dollars.

107 (e) Upon receipt of said application together with said certified copy  
108 of the court judgment, notarized affidavit and true and, except as  
109 otherwise provided in subsection (d) of this section, attested copy of  
110 the executing officer's return, the commissioner or the commissioner's  
111 designee shall inspect such documents for their veracity and upon a  
112 determination that such documents are complete and authentic, and a  
113 determination that the consumer has not been paid, the commissioner

114 shall order payment out of the New Home Construction Guaranty  
115 Fund of the amount not exceeding thirty thousand dollars unpaid  
116 upon the judgment for actual damages and costs taxed by the court  
117 against the contractor, exclusive of punitive damages.

118 (f) Beginning one year after October 1, 1999, whenever a consumer  
119 is awarded an order of restitution against any contractor for loss or  
120 damages sustained as a result of any violation of the provisions of  
121 sections 20-417a to 20-417i, inclusive, and subsection (b) of section 20-  
122 421 by a person holding a certificate or who has held a certificate  
123 under said sections and subsection within the past two years of the  
124 date of entering into the contract with the consumer, in a proceeding  
125 brought by the commissioner pursuant to subsection (h) of this section  
126 or subsection (d) of section 42-110d or in a proceeding brought by the  
127 Attorney General pursuant to subsection (a) of section 42-110m or  
128 subsection (d) of section 42-110d or a criminal proceeding pursuant to  
129 section 20-417d, such consumer may, upon the final determination of,  
130 or expiration of time for, appeal in connection with any such order of  
131 restitution, apply to the commissioner for an order directing payment  
132 out of said New Home Construction Guaranty Fund of the amount not  
133 exceeding thirty thousand dollars unpaid upon the order of restitution.  
134 The commissioner may issue said order upon a determination that the  
135 consumer has not been paid.

136 (g) Before the commissioner may issue any order directing payment  
137 out of the New Home Construction Guaranty Fund to a consumer  
138 pursuant to subsection (e) or (f) of this section, the commissioner shall  
139 first notify the new home construction contractor of the consumer's  
140 application for an order directing payment out of the New Home  
141 Construction Guaranty Fund and of the new home construction  
142 contractor's right to a hearing to contest the disbursement in the event  
143 that the new home construction contractor has already paid the  
144 consumer. Such notice shall be given to the new home construction  
145 contractor not later than fifteen days from the receipt by the  
146 commissioner of the consumer's application for an order directing  
147 payment out of the fund. If the new home construction contractor

148 requests a hearing, in writing, by certified mail not later than fifteen  
149 days from receipt of the notice from the commissioner, the  
150 commissioner shall grant such request and shall conduct a hearing in  
151 accordance with the provisions of chapter 54. If the commissioner does  
152 not receive a written request for a hearing by certified mail from the  
153 contractor on or before the fifteenth day from the contractor's receipt of  
154 such notice, the commissioner shall conclude that the consumer has  
155 not been paid, and the commissioner shall issue an order directing  
156 payment out of the fund for the amount not exceeding thirty thousand  
157 dollars unpaid upon the judgment for actual damages and costs taxed  
158 by the court against the new home construction contractor, exclusive of  
159 punitive damages, or for the amount not exceeding thirty thousand  
160 dollars unpaid upon the order of restitution.

161 (h) The commissioner or the commissioner's designee may proceed  
162 against any new home construction contractor holding a certificate or  
163 who has held a certificate under sections 20-417a to 20-417i, inclusive,  
164 and subsection (b) of section 20-421 within the past two years of the  
165 effective date of entering into the contract with the consumer, for an  
166 order of restitution arising from loss or damages sustained by any  
167 consumer as a result of any violation of the provisions of said sections  
168 and subsection. Any such proceeding shall be held in accordance with  
169 the provisions of chapter 54. In the course of such proceeding, the  
170 commissioner or the commissioner's designee shall decide whether to  
171 exercise the powers specified in section 20-417b; whether to order  
172 restitution arising from loss or damages sustained by any consumer as  
173 a result of any violation of the provisions of sections 20-417a to 20-417i,  
174 inclusive, and subsection (b) of section 20-421; and whether to order  
175 payment out of the New Home Construction Guaranty Fund.  
176 Notwithstanding the provisions of chapter 54, the decision of the  
177 commissioner or the commissioner's designee shall be final with  
178 respect to any proceeding to order payment out of the fund and the  
179 commissioner and the commissioner's designee are exempted from the  
180 requirements of chapter 54 as they relate to appeal from any such  
181 decision. The commissioner or the commissioner's designee may hear

182 complaints of all consumers submitting claims against a single  
183 contractor in one proceeding.

184 (i) No application for an order directing payment out of the New  
185 Home Construction Guaranty Fund shall be made later than two years  
186 from the final determination of, or expiration of time for, appeal in  
187 connection with any judgment or order of restitution, and no such  
188 application for an order directing payment out of the fund shall exceed  
189 thirty thousand dollars.

190 (j) In order to preserve the integrity of the New Home Construction  
191 Guaranty Fund, the commissioner, in the commissioner's sole  
192 discretion, may order payment out of said fund of an amount less than  
193 the actual loss or damages incurred by the consumer or less than the  
194 order of restitution awarded by the commissioner or the Superior  
195 Court. In no event shall any payment out of said fund be in excess of  
196 thirty thousand dollars for any single claim by a consumer.

197 (k) If the money deposited in the New Home Construction  
198 Guaranty Fund is insufficient to satisfy any duly authorized claim or  
199 portion of a claim, the commissioner shall, when sufficient money has  
200 been deposited in the fund, satisfy such unpaid claims or portions of  
201 claims not exceeding thirty thousand dollars, in the order that such  
202 claims or portions of claims were originally determined.

203 (l) When the commissioner has caused any sum to be paid from the  
204 New Home Construction Guaranty Fund to a consumer, the  
205 commissioner shall be subrogated to all of the rights of the consumer  
206 up to the amount paid plus reasonable interest, and prior to receipt of  
207 any payment from the fund, the consumer shall assign all of this right,  
208 title and interest in the claim up to such amount to the commissioner,  
209 and any amount and interest recovered by the commissioner on the  
210 claim shall be deposited to the fund.

211 (m) If the commissioner orders the payment of any amount as a  
212 result of a claim against a new home construction contractor, the  
213 commissioner shall determine if the new home construction contractor

214 is possessed of assets liable to be sold or applied in satisfaction of the  
215 claim on the New Home Construction Guaranty Fund. If the  
216 commissioner discovers any such assets, the commissioner may  
217 request that the Attorney General take any action necessary for the  
218 reimbursement of the fund.

219 (n) If the commissioner orders the payment of an amount as a result  
220 of a claim against a new home construction contractor, the  
221 commissioner may, after notice and hearing in accordance with the  
222 provisions of chapter 54, revoke the certificate of the new home  
223 construction contractor and such contractor shall not be eligible to  
224 receive a new or renewed certificate until such contractor has repaid  
225 such amount in full, plus interest from the time said payment is made  
226 from the New Home Construction Guaranty Fund, at a rate to be in  
227 accordance with section 37-3b, except that the commissioner may, in  
228 the commissioner's sole discretion, permit a new home construction  
229 contractor to receive a new or renewed certificate after such new home  
230 construction contractor has entered into an agreement with the  
231 commissioner whereby the new home construction contractor agrees  
232 to repay the fund in full in the form of periodic payments over a set  
233 period of time. Any such agreement shall include a provision  
234 providing for the summary suspension of any and all certificates held  
235 by the new home construction contractor if payment is not made in  
236 accordance with the terms of the agreement."

237 In line 225, after "location" insert ", except with the approval of the  
238 commissioner"

239 After line 242, insert the following:

240 "Sec. 15. This act shall take effect July 1, 2001, except that section 2  
241 shall take effect October 1, 2001."